

(Pub. L. 101-624, title XIII, §1329, Nov. 28, 1990, 104 Stat. 3565.)

### § 138i. Effect of other laws

Nothing in this chapter shall alter the authority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(Pub. L. 101-624, title XIII, §1330, Nov. 28, 1990, 104 Stat. 3565.)

#### REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in text, is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

## CHAPTER 7—INSECT PESTS GENERALLY

Sec.

141 to 147. Repealed or Omitted.

147a. Control and eradication of plant pests.

- (a) Authority of Secretary of Agriculture.
- (b) Intergovernmental cooperation.
- (c) Cooperating foreign agency.
- (d) Definitions.
- (e) Rules and regulations.
- (f) Authorization of appropriations; fees, late payment penalties, and accrued interest.

147b. Emergency transfer of funds by Secretary of Agriculture.

148. Control of insect pests and plant diseases.

148a. Availability of appropriated money for general administration; personnel; field work, etc.

148b. Repealed.

148c. Control of insect pests and plant diseases; cooperation of States.

148d. Restrictions on appropriations.

148e. Authorization of appropriations.

148f. Control of grasshoppers and Mormon Crickets on Federal lands.

- (a) Authority of Secretary of Agriculture.
- (b) Funds for lands subject to jurisdiction of Federal Government or Federal lands subject to jurisdiction of Secretary of the Interior; prompt requests for transferred funds and for replenishing appropriations.
- (c) Exhaustion of contingency grasshopper emergency funds before availability of transferred funds for control of outbreaks on Federal lands subject to jurisdiction of Secretary of the Interior.
- (d) Time for treatment of lands dependent on determination of economic damage.
- (e) Amount of payments for costs of control on Federal, State, and private lands; interrelated participation efforts.
- (f) Funding of personnel training program.

149. Regulation, cleaning, etc., of vehicles and materials entering from Mexico.

- (a) Administration by Secretary; fees.
- (b) Penalties.

#### MEDITERRANEAN FRUIT FLY INVESTIGATION BOARD

Act May 23, 1938, ch. 260, 52 Stat. 436, which created the Board for investigative purposes expired by its own terms on Mar. 15, 1939.

#### TICK ERADICATION ON SEMINOLE RESERVATION IN FLORIDA

Act July 22, 1942, ch. 516, 56 Stat. 675, which provided in part for the eradication of ticks on the Seminole Reservation, was a provision of the Department of Agriculture Appropriation Act, 1943, and expired on June 30, 1943.

### §§ 141 to 144. Repealed. Pub. L. 85-36, title I, § 111, May 23, 1957, 71 Stat. 35

Sections were from act Mar. 3, 1905, ch. 1501, §§1-4, 33 Stat. 1269. See chapter 7B of this title.

Section 141 prohibited transportation or removal of insect pests.

Section 142 related to punishment for mailing parcels, etc., containing insect pests.

Section 143 related to regulations for mailing, transportation, etc., of insect pests for scientific purposes.

Section 144, amended Sept. 3, 1954, ch. 1263, §16, 68 Stat. 1232, related to punishment for unlawful transportation or removal of insect pests.

#### CONTINUATION OF PROVISIONS

Sections amended or repealed by Pub. L. 85-36 to continue in force as to rights, liabilities and violations that occurred before May 23, 1957, and findings, regulations, other orders, permits and certificates issued before May 23, 1957, as remaining in effect until modified, see section 111 of Pub. L. 85-36 set out as a note under section 147a of this title.

### § 145. Repealed. Pub. L. 94-231, § 2, Mar. 15, 1976, 90 Stat. 216

Section, act Oct. 6, 1917, ch. 79, §1, 40 Stat. 374, provided for cooperation with Mexico and adjacent States in extermination of pink bollworm infestations in Mexico and related operations.

### §§ 146, 147. Omitted

#### CODIFICATION

Section 146, act Feb. 9, 1927, ch. 90, 44 Stat. 1065, authorized an appropriation of \$10,000,000 to eradicate or control European corn borer.

Section 147, act May 24, 1928, ch. 734, 45 Stat. 734, authorized an additional appropriation of \$7,000,000 to eradicate or control European corn borer.

### § 147a. Control and eradication of plant pests

#### (a) Authority of Secretary of Agriculture

The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers' associations and similar organizations, and individuals, is authorized to carry out operations or measures to detect, eradicate, suppress, control, or to prevent or retard the spread of plant pests.

#### (b) Intergovernmental cooperation

The Secretary of Agriculture is further authorized to cooperate with the governments of foreign countries, or the local authorities thereof, and with foreign or international organizations or associations, in carrying out necessary surveys and control operations in those countries in connection with the detection, eradication, suppression, control, and prevention or retardation of the spread of plant pests.

#### (c) Cooperating foreign agency

In performing the operations or measures herein authorized, the cooperating foreign country, State, or local agency shall be responsible for the authority necessary to carry out the op-

erations or measures on all lands and properties within the foreign country or State other than those owned or controlled by the Federal Government and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

**(d) Definitions**

As used in this section—

(1) “plant pest” means any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants;

(2) “living stage” includes the egg, pupal, and larval stages as well as any other living stage; and

(3) “State” includes the District of Columbia and the territories and possessions of the United States.

**(e) Rules and regulations**

The Secretary of Agriculture is authorized to promulgate such rules and regulations and use such means as he may deem necessary to provide for the inspection of plants and plant products offered for export or transiting the United States and to certify to shippers and interested parties as to the freedom of such products from plant pests according to the phytosanitary requirements of the foreign countries to which such products may be exported, or to the freedom from exposure to plant pests while in transit through the United States.

**(f) Authorization of appropriations; fees, late payment penalties, and accrued interest**

(1) Notwithstanding paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Unless otherwise specifically authorized or provided for in appropriations Acts, no part of such sums shall be used to pay the cost or value of property injured or destroyed.

(2) The Secretary of Agriculture is authorized to prescribe and collect fees to recover the costs of providing for the inspection of plants and plant products offered for export or transiting the United States and certifying to shippers and interested parties as to the freedom of such plants and plant products from plant pests according to the phytosanitary requirements of the foreign countries to which such plants and plant products may be exported, or to the freedom from exposure to plant pests while in transit through the United States. Any person for whom such an activity is performed shall be liable for payment of fees assessed. Upon failure to pay such fees when due, the Secretary of Agriculture shall assess a late payment penalty, and such overdue fees shall accrue interest, as required by section 3717 of title 31. All fees, late payment penalties, and accrued interest collected shall be credited to such accounts that incur the costs and shall remain available until expended without fiscal year limitation. The

Secretary of Agriculture shall have a lien for the fees, any late payment penalty, and any accrued interest assessed against the plant or plant product for which services have been provided. In the case of any person who fails to make payment when due, the Secretary of Agriculture shall also have a lien against any plant or plant product thereafter attempted to be exported by such person. The Secretary of Agriculture may, in case of nonpayment of the fees, late payment penalty, or accrued interest, after giving reasonable notice of default to the person liable for payment of such assessments, sell at public sale after reasonable public notice, or otherwise dispose of, any such plant or plant product upon which the Secretary of Agriculture has a lien pursuant to this section. If the sale proceeds exceed the fees due, any late payment penalty assessed, any accrued interest and the expenses of the sale, the excess shall be paid, in accordance with regulations of the Secretary of Agriculture, to the owner of the plant or plant product sold upon the owner making application therefore with proof of ownership, within six months after such sale, and otherwise the excess shall be credited to accounts that incur the costs and shall remain available until expended. The Secretary of Agriculture shall, pursuant to regulations as prescribed by the Secretary of Agriculture, suspend performance of services to persons who have failed to pay such fees, late payment penalty and accrued interest.

(Sept. 21, 1944, ch. 412, title I, § 102, 58 Stat. 735; June 17, 1949, ch. 220, 63 Stat. 200; Pub. L. 85-36, title II, § 201, May 23, 1957, 71 Stat. 35; Pub. L. 94-231, § 1, Mar. 15, 1976, 90 Stat. 215; Pub. L. 101-624, title XXV, §§ 2504, 2509(b), Nov. 28, 1990, 104 Stat. 4068, 4070.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-624, § 2504, substituted “foreign countries” for “all countries of the Western Hemisphere” and inserted “foreign or” before “international”.

Subsec. (f). Pub. L. 101-624, § 2509(b), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “There are hereby authorized to be appropriated such sums as the Congress may annually determine to be necessary to enable the Secretary of Agriculture to carry out the provisions of this section. Unless otherwise specifically authorized, or provided for in appropriations, no part of such sums shall be used to pay the cost or value of property injured or destroyed.”

1976—Subsecs. (a) to (d). Pub. L. 94-231 redesignated existing provisions of subsec. (a) as subsecs. (a) to (d) and broadened Secretary’s authority to control and eradicate plant pests and animal diseases, extended Secretary’s authority to cooperate with foreign governments, and inserted definitions for “plant pest” and “living stage”. Former subsecs. (b) and (c) redesignated (e) and (f), respectively.

Subsec. (e). Pub. L. 94-231 redesignated subsec. (b) as (e) and made discretionary the Secretary’s authority to provide phytosanitary inspection and certification service for domestic plants and plant products offered for export or transit in the United States.

Subsec. (f). Pub. L. 94-231 redesignated subsec. (c) as (f) and substituted provisions authorizing appropriations on a Congressional finding of necessity made “annually” for provisions authorizing appropriations on a Congressional finding of necessity made “from time to time”.

1957—Subsec. (a). Pub. L. 85-36 inserted “insect pests, plant diseases, and nematodes, such as imported fire

ant, soybean cyst nematode, witchweed, spotted alfalfa aphid,” after “or to prevent or retard the spread of”.

1949—Subsec. (a). Act June 17, 1949, authorized the Secretary to carry out operations to combat the citrus blackfly, white-fringed beetle, and the Hall scale.

#### CONTINUATION OF PROVISIONS

Pub. L. 85-36, title I, §111, May 23, 1957, 71 Stat. 35, provided in part that: “All Acts amended or repealed hereby [this section and sections 141 to 144, 149, and 441 of this title] shall be deemed to continue in full force and effect for the purpose of sustaining any action or other proceeding with respect to any right that accrued, liability that was incurred, or violation that occurred prior to the effective date of this Act [May 23, 1957]. Nothing contained in this Act [enacting chapter 7B of this title, amending this section and section 149 of this title, and repealing sections 141 to 144, and 441 of this title] shall affect the validity of any findings, regulations, or other orders, permits, or certificates, which were issued under any of the Acts cited in this section [sections 141 to 144, and 441 of this title] prior to the effective date of this Act [May 23, 1957] and which are in effect on said date, but such findings, regulations, other orders, permits, and certificates shall remain in effect unless and until modified in accordance with this Act [enacting chapter 7B of this title, amending this section and section 149 of this title, and repealing sections 141 to 144, and 441 of this title].”

For disposition of remainder of section 111, see note set out under section 150ii of this title.

#### CROSS REFERENCES

Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; assistance of State agencies to Secretary of Agriculture; coordination of administration of Federal and State laws; Federal administrative jurisdiction and other provisions respecting cooperation unaffected, see section 450 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 147b of this title; title 21 section 129.

### § 147b. Emergency transfer of funds by Secretary of Agriculture

The Secretary of Agriculture may, in connection with emergencies which threaten any segment of the agricultural production industry of this country, transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture such sums as the Secretary may deem necessary, to be available only in such emergencies for the arrest and eradication of plant pests or contagious or infectious diseases of animals or poultry, and for expenses in accordance with section 147a of this title and section 114b of title 21.

(Pub. L. 97-46, §1, Sept. 25, 1981, 95 Stat. 953.)

#### EFFECTIVE DATE

Section 2 of Pub. L. 97-46 provided that: “The provisions of this Act [this section] shall become effective upon enactment [Sept. 25, 1981].”

### § 148. Control of insect pests and plant diseases

The Secretary of Agriculture, in cooperation with authorities of the States concerned, organizations, or individuals, is authorized and directed to apply such methods for the control of incipient or emergency outbreaks of insect pests or plant diseases, including grasshoppers, Mormon crickets, and chinch bugs as may be nec-

essary. The Secretary of Agriculture is further authorized to cooperate with the Governments of Canada or Mexico or local Canadian or Mexican authorities in carrying out in such countries necessary operations or measures to control incipient or emergency outbreaks of insect pests or plant diseases, when such operations or measures are necessary to protect the agriculture of the United States. In performing the operations or measures authorized under sections 148 to 148e of this title, the cooperating foreign country, State, or local agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the foreign country or State other than those owned or controlled by the Federal Government and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

(Apr. 6, 1937, ch. 69, 50 Stat. 57; May 9, 1938, ch. 192, 52 Stat. 344; Aug. 13, 1954, ch. 731, 68 Stat. 717.)

#### AMENDMENTS

1954—Act Aug. 13, 1954, extended provisions to include cooperation with the Governments of Canada or Mexico or local Canadian or Mexican authorities.

1938—Act May 9, 1938, incorporated part of introductory clause of original section in first sentence and struck out remainder of such section consisting of the other parts of introductory clause relating to personnel and appropriations (see sections 148a and 148e of this title), the appropriation provisions of second clause (see section 148e of this title), provisions of first proviso relating to general administration, field work, etc. (see section 148a of this title) and provisions of second proviso restricting the uses of appropriations (see section 148d of this title).

#### SHORT TITLE

Act Apr. 6, 1937, ch. 69, 50 Stat. 57, as amended, which is classified to sections 148 to 148e of this title, is popularly known as the “Insect Control Act”.

#### CROSS REFERENCES

Authorization of appropriation, see section 148e of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148c, 148e of this title; title 41 section 6b.

### § 148a. Availability of appropriated money for general administration; personnel; field work, etc.

Any sums which may be appropriated for such purpose shall be available for expenditure for the employment of persons and means in the District of Columbia and elsewhere, printing, rent outside the District of Columbia, general administration and supervision, surveys, and the purchase, transportation, and application of poison bait or materials and equipment for control of insect pests or plant diseases, including grasshoppers, Mormon crickets, and chinch bugs, and for the preparation of such poison bait or materials for application, and such other expenses as may be necessary.

(Apr. 6, 1937, ch. 69, §2, as added May 9, 1938, ch. 192, 52 Stat. 344.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148, 148c, 148e of this title; title 41 section 6b.